

AMENDED IN SENATE JULY 1, 2010
AMENDED IN ASSEMBLY APRIL 27, 2010
AMENDED IN ASSEMBLY APRIL 5, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2244

Introduced by Assembly Member Feuer

February 18, 2010

An act to add Article 11.7 (commencing with Section 1399.825) to Chapter 2.2 of Division 2 of the Health and Safety Code, and to add Chapter 9.7 (commencing with Section 10950) to Part 2 of Division 2 of the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 2244, as amended, Feuer. Health care coverage.

Existing law, the federal Patient Protection and Affordable Care Act, on and after January 1, 2014, requires a health insurance issuer offering health insurance coverage in the individual or group market to accept every employer and individual in the state that applies for that coverage, as specified, and allows premiums for coverage in the individual or small group market to vary only by rating area, age, tobacco use, and whether the coverage is for an individual or family, as specified. The act also prohibits a health insurance issuer offering group or individual health insurance coverage from imposing any preexisting condition for children with respect to plan years beginning on or after September 23, 2010, and for adults with respect to plan years beginning on or after January 1, 2014.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensing, licensure and regulation of health care service

plans by the Department of Managed Health Care. Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law authorizes a health care service plan or health insurer to exclude an applicant from coverage for a specified time for preexisting conditions. A willful violation of provisions governing health care service plans is a crime.

This bill would require all health care service plans and ~~insurance carriers~~ *health insurers* that offer *individual* health care coverage to ~~children or individuals~~ to offer that coverage, by specified dates, to any child or ~~individual~~ *adult* seeking coverage. The bill would also prohibit, by specified dates, the exclusion or limitation of coverage due to any preexisting condition. The bill would further establish and require the implementation of ~~standard risk rates~~ *certain rating bands* with respect to plan contracts or health ~~benefit plans~~ *insurance policies* that provide coverage to children, as specified, *and would, effective January 1, 2014, require plans and insurers to apply standard risk rates to both adult and child coverage.* The bill would authorize the Department of Managed Health Care and the Department of Insurance to adopt emergency regulations for purposes of ~~implementation~~ *implementing these provisions.*

By imposing new requirements on health care service plans, the willful violation of which would be a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Article 11.7 (commencing with Section 1399.825)
- 2 is added to Chapter 2.2 of Division 2 of the Health and Safety
- 3 Code, to read:
- 4
- 5 Article 11.7. Individual Access to Health Care *Coverage*
- 6
- 7 1399.825. As used in this article:

1 (a) (1) “Child” means any individual under 19 years of age.

2 (2) “Responsible party for a child” means an adult having
3 custody of a child with the right to make medical decisions for,
4 and with the responsibility for the financial needs of, the child.

5 (b) “Individual” means any individual ~~over 19 years of age~~ 19
6 *years of age or older*.

7 (c) “In force business” means an existing health-benefit *care*
8 *service* plan contract issued by ~~the~~ *a health care service* plan to
9 an individual.

10 (d) “New business” means a health care service plan contract
11 issued to an individual that is not the plan’s in force business.

12 (e) “Preexisting condition provision” means a contract provision
13 that excludes coverage for charges or expenses incurred during a
14 specified period following the ~~individual’s enrollee’s~~ effective
15 date of coverage, as to a condition for which medical advice,
16 diagnosis, care, or treatment was recommended or received during
17 a specified period immediately preceding the effective date of
18 coverage.

19 (f) “Rating period” means the period for which premium rates
20 established by a plan are in effect and shall be no less than 12
21 months.

22 (g) “Risk adjusted individual risk rate” means the rate
23 determined for an eligible individual or child in a particular risk
24 category after applying the risk adjustment factor.

25 (h) “Risk adjustment factor” means the percentage adjustment
26 to be applied equally to each standard risk rate for a particular
27 child, based upon any expected deviations from standard cost of
28 services. ~~This Between January 1, 2011, and December 31, 2011,~~
29 ~~inclusive, this factor may not be more than 120 percent or less than~~
30 ~~80 percent until January 1, 2012. Effective January 1, 2012, this~~
31 ~~80 percent. Between January 1, 2012, and December 31, 2013,~~
32 ~~inclusive, this factor may not be more than 110 percent or less than~~
33 ~~90 percent. Effective January 1, 2014, the standard risk rate shall~~
34 ~~apply to all policies contracts sold to individuals or for children.~~

35 (i) “Risk category” means the following characteristics of an
36 eligible child: age, geographic region, and family composition of
37 the individual, plus the health-benefit *care service* plan selected
38 by the individual.

39 (1) Until January 1, 2014, no more than the following age
40 categories may be used in determining premium rates:

1 ~~(A) Under age 5.~~

2 ~~(B) Age 5–15.~~

3 ~~(C) Age 15–19.~~

4 (A) *Under age 1.*

5 (B) *Age 1–19.*

6 (2) The rate shall not vary by more than 2 to 1 for children.

7 (3) Individual health care service plans shall base rates for
8 individuals and children using no more than the following family
9 size categories:

10 (A) *Single.*

11 ~~(B) Married couple.~~

12 ~~(C) One adult and child or children.~~

13 ~~(D) Married couple and child or children.~~

14 (B) *More than one child and no adults.*

15 (C) *Married couple or registered domestic partners.*

16 (D) *One adult and one child.*

17 (E) *One adult and children.*

18 (F) *Married couple and child or children, or registered domestic
19 partners and child or children.*

20 (4) In determining rates for individuals and children, a plan that
21 operates statewide shall use the geographic regions specified in
22 Section 1357.

23 (j) Nothing in this section shall be construed to require a plan
24 to establish a new service area or to offer health coverage on a
25 statewide basis, outside of the plan's existing service area.

26 1399.826. (a) (1) Effective January 1, 2011, every health care
27 service plan offering plan contracts for children shall offer coverage
28 to the responsible party for any child that seeks coverage.

29 (2) Effective January 1, 2014, every health care service plan
30 offering plan contracts to individuals shall offer coverage to any
31 individual who seeks coverage.

32 (b) (1) Effective January 1, 2011, notwithstanding any other
33 provision of state law or regulation, every health care service plan
34 offering contracts for children shall not exclude or limit coverage
35 due to any preexisting condition.

36 (2) Effective January 1, 2014, notwithstanding any other
37 provision of state law or regulation, every health care service plan
38 offering contracts for individuals shall not exclude or limit
39 coverage due to any preexisting condition.

1 (c) This article shall not apply to coverage to which an employer
2 makes any contribution.

3 (d) Every health care service plan offering plan contracts to
4 individuals shall, in addition to complying with the provisions of
5 this chapter and the rules adopted thereunder, comply with the
6 provisions of this article.

7 1399.827. This article shall not apply to health *care service*
8 plan contracts for coverage of Medicare services pursuant to
9 contracts with the United States government, Medicare supplement
10 *contracts*, Medi-Cal contracts with the State Department of Health
11 Care Services, ~~Healthy Families plan contracts offered under the~~
12 ~~Healthy Families Program~~, long-term care coverage, or specialized
13 health *care service* plan contracts.

14 1399.828. (a) Upon the effective date of this article, a health
15 care service plan shall fairly and affirmatively offer, market, and
16 sell all of the plan's health care service plan contracts that are
17 offered and sold to the responsible party for a child. Effective
18 January 1, 2014, a health care service plan shall fairly and
19 affirmatively offer, market, and sell all of the plan's health care
20 service plan contracts that are sold to individuals.

21 (b) Effective January 1, 2011, a health care service plan shall
22 not reject an application from the responsible party for a child for
23 a health care service plan contract. Effective January 1, 2014, a
24 health care service plan shall not reject an application from an
25 individual for a health care service plan contract.

26 (c) No health care service plan or solicitor shall, directly or
27 indirectly, engage in the following activities:

28 (1) Encourage or direct an individual or responsible party for a
29 child to refrain from filing an application for coverage with a plan
30 because of the health status, claims experience, industry,
31 ~~occupation of the individual or child, or geographic location~~
32 ~~provided that it is within the plan's approved service area.~~
33 *occupation, or geographic location, provided that the location is*
34 *within the plan's approved service area, of the individual or child.*

35 (2) Encourage or direct individuals or children to seek coverage
36 from another plan because of the health status, claims experience,
37 ~~industry, occupation of the individual or child, or geographic~~
38 ~~location, provided that it is within the plan's approved service area.~~
39 *industry, occupation, or geographic location, provided that the*

1 *location is within the plan's approved service area, of the*
2 *individual or child.*

3 (d) A health care service plan shall not, directly or indirectly,
4 enter into any contract, agreement, or arrangement with a solicitor
5 that provides for or results in the compensation paid to a solicitor
6 for the sale of a health care service plan contract to be varied
7 because of the health status, claims experience, industry,
8 occupation, or geographic location of the individual or child. This
9 subdivision does not apply to a compensation arrangement that
10 provides compensation to a solicitor on the basis of percentage of
11 premium, provided that the percentage shall not vary because of
12 the health status, claims experience, industry, occupation, or
13 geographic area of the individual or child.

14 (e) Effective January 1, 2011, a health care service plan contract
15 that covers a child shall not establish rules for eligibility, including
16 continued eligibility, of an individual, or dependent of an
17 individual, to enroll under the terms of the plan based on any of
18 the following health status-related factors:

- 19 (1) Health status.
- 20 (2) Medical condition, including physical and mental illnesses.
- 21 (3) Claims experience.
- 22 (4) Receipt of health care.
- 23 (5) Medical history.
- 24 (6) Genetic information.
- 25 (7) Evidence of insurability, including conditions arising out of
26 acts of domestic violence.
- 27 (8) Disability.
- 28 (9) Any other health status-related factor determined appropriate
29 by department.

30 1399.829. (a) After an individual or the responsible party for
31 a child submits a completed application form for a plan contract,
32 the health care service plan shall, within 30 days, notify the
33 individual or responsible party for a child of actual premium
34 charges for that plan contract established in accordance with
35 Section 1399.836. The individual or responsible party for a child
36 shall have 30 days in which to exercise the right to buy coverage
37 at the quoted premium charges.

38 (b) When an individual or the responsible party for a child
39 submits a premium payment, based on the quoted premium charges,
40 and that payment is delivered or postmarked, whichever occurs

1 earlier, within the first 15 days of the month, coverage under the
2 plan contract shall become effective no later than the first day of
3 the following month. ~~When that payment is neither delivered nor~~
4 ~~postmarked until~~ *If that payment is delivered or postmarked* after
5 the 15th day of a month, coverage shall become effective no later
6 than the first day of the second month following delivery or
7 postmark of the payment.

8 (c) During the first 60 days after the effective date of the plan
9 contract, the individual or responsible party for a child shall have
10 the option of changing coverage to a different plan contract offered
11 by the same health care service plan. If an individual or the
12 responsible party for a child notifies the plan of the change within
13 the first 15 days of a month, coverage under the new plan contract
14 shall become effective no later than the first day of the following
15 month. If an individual or the responsible party for a child notifies
16 the plan of the change after the 15th day of a month, coverage
17 under the new plan contract shall become effective no later than
18 the first day of the second month following notification.

19 1399.830. (a) Effective January 1, 2011, a health care service
20 plan may not exclude any child who would otherwise be entitled
21 to health care services on the basis of an actual or expected health
22 condition of that child. No health care service plan contract may
23 limit or exclude coverage for a child by type of illness, treatment,
24 medical condition, or accident.

25 (b) Effective January 1, 2014, a health care service plan may
26 not exclude any individual who would otherwise be entitled to
27 health care services on the basis of an actual or expected health
28 condition of that individual. No health care service plan contract
29 may limit or exclude coverage for a child by type of illness,
30 treatment, medical condition, or accident.

31 ~~1399.831. All health care service plan contracts offered to an~~
32 ~~individual or child shall provide to subscribers and enrollees at~~
33 ~~least all of the basic health care services in this act.~~

34 1399.832. No health care service plan shall be required to offer
35 a health care service plan contract or accept applications for the
36 contract pursuant to this article in the case of any of the following:

37 (a) To an individual or child, if the individual or child who is
38 to be covered by the plan contract does not work or reside within
39 the plan's approved service areas.

(b) (1) Within a specific service area or portion of a service area, if the plan reasonably anticipates and demonstrates to the satisfaction of the director that it will not have sufficient health care delivery resources to ensure that health care services will be available and accessible to the individual or child because of its obligations to existing enrollees.

(2) A health care service plan that cannot offer a health care service plan contract to individuals or children because it is lacking in sufficient health care delivery resources within a service area or a portion of a service area may not offer a contract in the area in which the plan is not offering coverage to individuals to new employer groups until the plan notifies the director that it has the ability to deliver services to individuals, and certifies to the director that from the date of the notice it will enroll all individuals requesting coverage in that area from the plan.

(3) Nothing in this article shall be construed to limit the director's authority to develop and implement a plan of rehabilitation for a health care service plan whose financial viability or organizational and administrative capacity has become impaired.

1399.833. The director may require a health care service plan to discontinue the offering of contracts or acceptance of applications from any individual or child upon a determination by the director that the plan does not have sufficient financial viability or organizational and administrative capacity to ensure the delivery of health care services to its enrollees. In determining whether the conditions of this section have been met, the director shall consider, but not be limited to, the plan's compliance with the requirements of Section 1367, Article 6 (commencing with Section 1375.1), and the rules adopted under those provisions.

1399.834. All health care service plan contracts offered to a child or individual shall be renewable at the option of the enrollee or responsible party for a child except:

(a) For nonpayment of the required premiums by the enrollee or responsible party for a child.

(b) For fraud or misrepresentation by the individuals or their representatives.

(c) When the health care service plan ceases to provide or arrange for the provision of health care services for new individual health care service plan contracts in this state; provided, however, that the following conditions are satisfied:

1 (1) Notice of the decision to cease new or existing individual
2 ~~health benefits plans~~ *health care service plan contracts* in this state
3 is provided to the director and to the contractholder at least 360
4 days prior to the discontinuation of the coverage.

5 (2) Individual health care service plan contracts subject to this
6 article shall not be canceled for 360 days after the date of the notice
7 required under paragraph (1) and for that business of a plan which
8 remains in force, any plan that ceases to offer for sale new
9 individual health care service plan contracts shall continue to be
10 governed by this article with respect to business conducted under
11 this article.

12 (3) Except as authorized under Section 1399.833, a plan that
13 ceases to write new individual business in this state after the
14 effective date of this article shall be prohibited from offering for
15 sale new individual health care service plan contracts in this state
16 for a period of five years from the date of notice to the director.

17 (d) When the health care service plan withdraws a health care
18 service plan contract from the individual market; provided, the
19 plan notifies all affected contractholders and the director at least
20 180 days prior to the discontinuation of those contracts, and the
21 plan makes available to the individual all plan contracts that it
22 makes available to new individual business; and provided, that the
23 premium for the new plan contract complies with the renewal
24 increase requirements set forth in Section 1399.836.

25 1399.836. Effective January 1, 2011, premiums for contracts
26 offered or delivered by health care service plans on or after the
27 effective date of this article for children shall be subject to the
28 following requirements:

29 (a) The premium for new business shall be determined for an
30 eligible child in a particular risk category after applying a risk
31 adjustment factor to the plan's standard risk rates. ~~The Between~~
32 *January 1, 2011, and December 31, 2011, inclusive, the risk*
33 *adjusted risk rate may not be more than 120 percent or less than*
34 *80 percent of the plan's applicable standard risk rate until January*
35 *1, 2012. Effective January 1, 2012 Between January 1, 2012, and*
36 *December 31, 2013, inclusive, this factor may not be more than*
37 *110 percent or less than 90 percent. The standard risk rates applied*
38 *to a child for new business shall be in effect for no less than 12*
39 *months.*

(b) (1) The premium for in force business shall be determined for an eligible child in a particular risk category after applying a risk adjustment factor to the plan's standard individual risk rates. ~~The~~ *Between January 1, 2011, and December 31, 2011, inclusive,* the risk adjusted individual risk rates may not be more than 120 percent or less than 80 percent of the plan's applicable standard ~~risk rate until January 1, 2011. Effective January 1, 2012, this risk~~ *rate. Between January 1, 2012, and December 31, 2013, inclusive,* this factor may not be more than 110 percent or less than 90 percent. The factor effective January 1, 2011, shall apply to in force business at the earlier of either the time of renewal or January 1, 2012. The risk adjustment factor applied to a child may not increase by more than 10 percentage points from the risk adjustment factor applied in the prior rating period. The risk adjustment factor for a child may not be modified more frequently than once every 12 months.

(2) The standard risk rates shall be in effect for no less than 12 months.

(3) For a contract that a plan has discontinued offering, the risk adjustment factor applied to the standard risk rates for the first rating period of the new contract that the responsible party for the child elects to purchase shall be no greater than the risk adjustment factor applied in the prior rating period to the discontinued contract. However, *between January 1, 2011, and December 31, 2011, inclusive,* the risk adjusted individual risk rate may not be more than 120 percent or less than 80 percent of the plan's applicable ~~standard risk rate until January 1, 2012. Effective January 1, 2012,~~ *standard risk rate. Between January 1, 2012, and December 31, 2013, inclusive,* this factor may not be more than 110 percent or less than 90 percent. The factor effective January 1, ~~2012~~ *2011,* shall apply to in force business at the earlier of either the time of renewal or January 1, 2012. The risk adjustment factor for a child may not be modified more frequently than once every 12 months.

1399.837. Health care service plans shall apply standard risk rates consistently with respect to all children.

1399.838. In connection with the offering for sale of any plan contract for children, each plan shall make a reasonable disclosure, as part of its solicitation and sales materials, of the following:

(a) The extent to which premium rates for a specific child are established or adjusted in part based upon the actual or expected

1 variation in service costs or actual or expected variation in health
2 condition of the child.

3 (b) The provisions concerning the plan's right to change
4 premium rates and the factors, other than provision of services
5 experience, that affect changes in premium rates.

6 (c) Provisions relating to the guaranteed issue and renewal of
7 contracts.

8 (d) Provisions relating to the child's right to apply for any
9 contract written, issued, or administered by the plan at the time of
10 application for a new health care service plan contract, or at the
11 time of renewal of a health care service plan contract.

12 (e) The availability, upon request, of a listing of all the plan's
13 contracts and benefit plan designs offered for children, including
14 the rates for each contract.

15 (f) At the time it offers a contract to the responsible party for a
16 child, each plan shall provide the responsible party with a statement
17 of all of its plan contracts offered to children, including the rates
18 for each plan contract, in the service area in which the individuals
19 who are to be covered by the plan contract reside. For purposes of
20 this subdivision, plans that are affiliated plans or that are eligible
21 to file a consolidated income tax return shall be treated as one
22 health plan.

23 (g) Each health care service plan shall do all of the following:

24 (1) Prepare a brochure that summarizes all of its plan contracts
25 offered to children and to make this summary available to any
26 responsible party for a child and to solicitors upon request. The
27 summary shall include for each contract information on benefits
28 provided, a generic description of the manner in which services
29 are provided, such as how access to providers is limited, benefit
30 limitations, required copayments and deductibles, standard risk
31 rates, and a ~~phone~~ *telephone* number that can be called for more
32 detailed benefit information. Plans are required to keep the
33 information contained in the brochure accurate and up to date and,
34 upon updating the brochure, send copies to solicitors and solicitor
35 firms with whom the plan contracts to solicit enrollments or
36 subscriptions.

37 (2) For each contract, prepare a more detailed evidence of
38 coverage and make it available to responsible parties, solicitors,
39 and solicitor firms upon request. The evidence of coverage shall

1 contain all information that a prudent buyer would need to be aware
2 of in making contract selections.

3 (3) Provide to responsible parties and solicitors, upon request,
4 for any given child the standard risk rates. When requesting this
5 information, responsible parties, solicitors, and solicitor firms shall
6 provide the plan with the information the plan needs to determine
7 the ~~individual's~~ *child's* risk adjusted risk rate.

8 (4) Provide copies of the current summary brochure to all
9 solicitors and solicitor firms contracting with the plan to solicit
10 enrollments or subscriptions from responsible parties for children.

11 For purposes of this subdivision, plans that are affiliated plans
12 or that are eligible to file a consolidated income tax return shall
13 be treated as one health plan.

14 (h) Every solicitor or solicitor firm contracting with one or more
15 plans to solicit enrollments or subscriptions from responsible
16 parties for children shall do all of the following:

17 (1) When providing information on contracts to a responsible
18 party for a child or children but making no specific
19 recommendations on particular plan contracts:

20 (A) Advise the responsible party of the plan's obligation to sell
21 to any responsible party any plan contract it offers for children
22 and provide them, upon request, with the actual rates that would
23 be charged for that child for a given contract.

24 (B) Notify the responsible party that the solicitor or solicitor
25 firm will procure rate and benefit information for the responsible
26 party for the child on any plan contract offered by a plan whose
27 contract the solicitor sells.

28 (C) Notify the responsible party that upon request the solicitor
29 or solicitor firm will provide the responsible party with the
30 summary brochure required under this paragraph for any plan
31 contract offered by a plan with whom the solicitor or solicitor firm
32 has contracted to solicit enrollments or subscriptions.

33 (2) When recommending a particular benefit plan design or
34 designs, advise the responsible party that, upon request, the agent
35 will provide the responsible party with the brochure required by
36 paragraph (1) containing the benefit plan design or designs being
37 recommended by the agent or broker.

38 (3) Prior to filing an application for a responsible party for a
39 child for a particular contract:

1 (A) For each of the plan contracts offered by the plan whose
2 contract the solicitor or solicitor firm is offering, provide the
3 responsible party with the benefit summary required in paragraph
4 (1) and the standard risk rates for that particular child.

5 (B) Notify the responsible party that, upon request, the solicitor
6 or solicitor firm will provide the responsible party with an evidence
7 of coverage brochure for each contract the plan offers.

8 (C) Notify the responsible party for a child that, from January
9 1, 2011, to ~~January 1, 2012~~ *December 31, 2011, inclusive*, actual
10 rates may be 20 percent higher or lower than the standard risk
11 rates, and from January 1, 2012, ~~until December 31, 2014 to~~
12 *December 31, 2013, inclusive*, actual rates may be 10 percent
13 higher or lower than the standard risk rates, depending on how the
14 plan assesses the risk of the child.

15 (D) Notify the responsible party that, upon request, the solicitor
16 or solicitor firm will submit information to the plan to ascertain
17 the child's risk adjusted risk rate for any contract the plan offers.

18 (E) Obtain a signed statement from the responsible party
19 acknowledging that the responsible party has received the
20 disclosures required by this section.

21 1399.839. (a) At least 30 business days prior to renewing or
22 amending a plan contract subject to this article that will be in force
23 on the operative date of this article, a plan shall file a notice of
24 material modification with the director in accordance with the
25 provisions of Section 1352. The notice of material modification
26 shall include a statement certifying that the plan is in compliance
27 with subdivision (i) of Section 1399.825 and Section 1399.836.
28 The certified statement shall set forth the standard risk rate for
29 each risk category and the highest and lowest risk adjustment
30 factors that will be used in setting the rates at which the contract
31 will be renewed or amended. Any action by the director, as
32 permitted under Section 1352, to disapprove, suspend, or postpone
33 the plan's use of a plan contract shall be in writing, specifying the
34 reasons that the plan contract is not in compliance with the
35 requirements of this chapter.

36 (b) At least 30 business days prior to offering a plan contract
37 subject to this article, all plans shall file a notice of material
38 modification with the director in accordance with the provisions
39 of Section 1352. The notice of material modification shall include
40 a statement certifying that the plan is in compliance with

1 subdivision (i) of Section 1399.825 and Section 1399.836. The
2 certified statement shall set forth the standard risk rate for each
3 risk category and the highest and lowest risk adjustment factors
4 that will be used in setting the rates at which the contract will be
5 offered. Plans that will be offering to a responsible party for a child
6 contracts approved by the director prior to the effective date of
7 this article shall file a notice of material modification in accordance
8 with this subdivision. Any action by the director, as permitted
9 under Section 1352, to disapprove, suspend, or postpone the plan's
10 use of a plan contract shall be in writing, specifying the reasons
11 that the plan contract is not in compliance with the requirements
12 of this chapter.

13 (c) Prior to making any changes in the risk categories, risk
14 adjustment factors, or standard risk rates filed with the director
15 pursuant to subdivision (a) or (b), the plan shall file, as an
16 amendment, a statement setting forth the changes and certifying
17 that the plan is in compliance with subdivision (i) of Section
18 1399.825 and Section 1399.836. A plan may commence offering
19 plan contracts utilizing the changed risk categories set forth in the
20 certified statement on the 45th day from the date of the filing, or
21 at an earlier time determined by the director, unless the director
22 disapproves the amendment by written notice, stating the reasons
23 therefor. If only the standard risk rate is being changed, and not
24 the risk categories or risk adjustment factors, a plan may commence
25 offering plan contracts utilizing the changed standard risk rate
26 upon the 31st day after filing the certified statement unless the
27 director disapproves the amendment by written notice.

28 (d) Periodic changes to the standard risk rate that a plan proposes
29 to implement over the course of up to 12 consecutive months may
30 be filed in conjunction with the certified statement filed under
31 subdivision (a), (b), or (c).

32 (e) Each plan shall maintain at its principal place of business
33 all of the information required to be filed with the director pursuant
34 to this section.

35 (f) Each plan shall make available to the director, on request,
36 the risk adjustment factor used in determining the rate for any
37 particular child.

38 (g) Nothing in this section shall be construed to limit the
39 director's authority to enforce the rating practices set forth in this
40 article.

1399.840. The director may issue regulations that are necessary to carry out the purposes of this article. Prior to the public comment period required by regulations under the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the director shall provide the Insurance Commissioner with a copy of the proposed regulations. The Insurance Commissioner shall have 30 days to notify the director in writing of any comments on the regulations. The Insurance Commissioner's comments shall be included in the public notice issued on the regulations. Any rules and regulations adopted pursuant to this article may be adopted as emergency regulations in accordance with the Administrative Procedure Act. Until December 31, 2015, the adoption of these regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Any regulations adopted prior to December 31, 2015, in order to remain in effect after December 31, 2016, shall be readopted as nonemergency regulations in accordance with the Administrative ~~Procedures~~ *Procedure* Act prior to December 31, 2016.

SEC. 2. Chapter 9.7 (commencing with Section 10950) is added to Part 2 of Division 2 of the Insurance Code, to read:

CHAPTER 9.7. INDIVIDUAL ACCESS TO HEALTH INSURANCE

10950. As used in this ~~article~~ *chapter*:

- (a) (1) "Child" means any individual under 19 years of age.
- (2) "Responsible party for a child" means an adult having custody of a child with the right to make medical decisions for, and with the responsibility for the financial needs of, the child.
- (b) "Individual" means any individual ~~over 19 years of age~~ *19 years of age or older*.
- (c) "In force business" means an existing health benefit plan issued by a carrier to an individual.
- (d) "New business" means a health benefit plan issued to an individual that is not the carrier's in force business.
- (e) "Preexisting condition provision" means a contract provision that excludes coverage for charges or expenses incurred during a specified period following the ~~individual's~~ *insured's* effective date of coverage, as to a condition for which medical advice, diagnosis,

1 care, or treatment was recommended or received during a specified
2 period immediately preceding the effective date of coverage.

3 (f) “Rating period” means the period for which premium rates
4 established by a carrier are in effect and shall be no less than 12
5 months.

6 (g) “Risk adjusted individual risk rate” means the rate
7 determined for an eligible individual or child in a particular risk
8 category after applying the risk adjustment factor.

9 (h) “Risk adjustment factor” means the percentage adjustment
10 to be applied equally to each standard risk rate for a particular
11 child, based upon any expected deviations from standard cost of
12 services. ~~This Between January 1, 2011, and December 31, 2011,~~
13 ~~inclusive, this factor may not be more than 120 percent or less than~~
14 ~~80 percent until January 1, 2012. Effective January 1, 2012, this~~
15 ~~80 percent. Between January 1, 2012, and December 31, 2013,~~
16 ~~inclusive, this factor may not be more than 110 percent or less than~~
17 ~~90 percent. Effective January 1, 2014, the standard risk rate shall~~
18 ~~apply to all policies sold to individuals or for children.~~

19 (i) “Risk category” means the following characteristics of an
20 eligible child: age, geographic region, and family composition of
21 the individual, plus the health benefit plan selected by the
22 individual.

23 (1) Until January 1, 2014, no more than the following age
24 categories may be used in determining premium rates:

25 ~~(A) Under age 5.~~

26 ~~(B) Age 5–15.~~

27 ~~(C) Age 15–19.~~

28 (A) *Under age 1.*

29 (B) *Age 1 to 19.*

30 (2) The rate shall not vary by more than 2 to 1 for children.

31 (3) Carriers shall base rates for individuals and children using
32 no more than the following family size categories:

33 (A) *Single.*

34 ~~(B) Married couple.~~

35 ~~(C) One adult and child or children.~~

36 ~~(D) Married couple and child or children.~~

37 (B) *More than one child and no adults.*

38 (C) *Married couple or registered domestic partners.*

39 (D) *One adult and one child.*

40 (E) *One adult and children.*

1 (F) *Married couple and child or children, or registered domestic*
2 *partners and child or children.*

3 (4) In determining rates for individuals and children, a carrier
4 that operates statewide shall *use* the geographic regions specified
5 in Section 10700.

6 (j) Nothing in this section shall be construed to require a carrier
7 to establish a new service area or to offer health coverage on a
8 statewide basis, outside of the carrier's existing service area.

9 10951. (a) (1) Effective January 1, 2011, every carrier offering
10 health benefit plans for children shall offer coverage to the
11 responsible party for any child that seeks coverage.

12 (2) Effective January 1, 2014, every carrier offering health
13 benefit plans to individuals shall offer coverage to any individual
14 who seeks coverage.

15 (b) (1) Effective January 1, 2011, notwithstanding any other
16 provision of state law or regulation, every carrier offering contracts
17 for children shall not exclude or limit coverage due to any
18 preexisting condition.

19 (2) Effective January 1, 2014, notwithstanding any other
20 provision of state law or regulation, every carrier offering contracts
21 for individuals shall not exclude or limit coverage due to any
22 preexisting condition.

23 (c) ~~This article~~ *chapter* shall not apply to coverage to which an
24 employer makes any contribution.

25 (d) Every carrier offering health benefit plans to individuals
26 shall, in addition to complying with the provisions of this ~~chapter~~
27 *part* and the rules adopted thereunder, comply with the provisions
28 of this ~~article~~ *chapter*.

29 10952. ~~This article~~ *chapter* shall not apply to health benefit
30 plans for coverage of Medicare services pursuant to contracts with
31 the United States government, Medicare supplement *policies*,
32 Medi-Cal contracts with the State Department of Health Care
33 Services, ~~Healthy Families~~ *policies offered under the Healthy*
34 *Families Program*, long-term care coverage, or specialized health
35 benefit plans.

36 10953. (a) Upon the effective date of this ~~article~~ *chapter*, a
37 carrier shall fairly and affirmatively offer, market, and sell all of
38 the carrier's contracts that are offered and sold to the responsible
39 party for a child. Effective January 1, 2014, a carrier shall fairly

1 and affirmatively offer, market, and sell all of the carrier's contracts
2 that are sold to individuals.

3 (b) Effective January 1, 2011, a carrier shall not reject an
4 application from the responsible party for a child for a health
5 benefit plan. Effective January 1, 2014, a carrier shall not reject
6 an application from an individual for a health benefit plan.

7 (c) No carrier or solicitor shall, directly or indirectly, engage in
8 the following activities:

9 (1) Encourage or direct an individual or responsible party for a
10 child to refrain from filing an application for coverage with a carrier
11 because of the health status, claims experience, industry,
12 ~~occupation of the individual or child, or geographic location~~
13 ~~provided that it is within the carrier's approved service area.~~
14 *occupation, or geographic location, provided that the location is*
15 *within the carrier's approved service area, of the individual or*
16 *child.*

17 (2) Encourage or direct individuals or children to seek coverage
18 from another carrier because of the health status, claims experience,
19 ~~industry, occupation of the individual or child, or geographic~~
20 ~~location, provided that it is within the carrier's approved service~~
21 ~~area.~~ *industry, occupation, or geographic location, provided that*
22 *the location is within the carrier's approved service area, of the*
23 *individual or child.*

24 (d) A carrier shall not, directly or indirectly, enter into any
25 contract, agreement, or arrangement with a solicitor that provides
26 for or results in the compensation paid to a solicitor for the sale of
27 a health benefit plan to be varied because of the health status,
28 claims experience, industry, occupation, or geographic location
29 of the individual or child. This subdivision does not apply to a
30 compensation arrangement that provides compensation to a
31 solicitor on the basis of percentage of premium, provided that the
32 percentage shall not vary because of the health status, claims
33 experience, industry, occupation, or geographic area of the
34 individual or child.

35 (e) Effective January 1, 2011, a ~~health care service~~ health benefit
36 plan that covers a child shall not establish rules for eligibility,
37 including continued eligibility, of an individual, or dependent of
38 an individual, to enroll under the terms of the carrier based on any
39 of the following health status-related factors:

40 (1) Health status.

- 1 (2) Medical condition, including physical and mental illnesses.
- 2 (3) Claims experience.
- 3 (4) Receipt of health care.
- 4 (5) Medical history.
- 5 (6) Genetic information.
- 6 (7) Evidence of insurability, including conditions arising out of
- 7 acts of domestic violence.
- 8 (8) Disability.
- 9 (9) Any other health status-related factor determined appropriate
- 10 by department.

11 (f) A carrier shall comply with the requirements of subdivision

12 (c) of Section 10119.

13 (g) Effective January 1, 2014, this section shall apply to all

14 individuals and children obtaining coverage with no contribution

15 from an employer.

16 10954. (a) After an individual or the responsible party for a

17 child submits a completed application form for a health benefit

18 plan, the carrier shall, within 30 days, notify the individual or

19 responsible party for a child of actual premium charges for that

20 health benefit plan established in accordance with Section 10960.

21 The individual or responsible party for a child shall have 30 days

22 in which to exercise the right to buy coverage at the quoted

23 premium charges.

24 (b) When an individual or the responsible party for a child

25 submits a premium payment, based on the quoted premium charges,

26 and that payment is delivered or postmarked, whichever occurs

27 earlier, within the first 15 days of the month, coverage under the

28 health benefit plan shall become effective no later than the first

29 day of the following month. ~~When that payment is neither delivered~~

30 ~~nor postmarked until~~ *If that payment is delivered or postmarked*

31 *after the 15th day of a month, coverage shall become effective no*

32 *later than the first day of the second month following delivery or*

33 *postmark of the payment.*

34 (c) During the first 60 days after the effective date of the health

35 benefit plan, the individual or responsible party for a child shall

36 have the option of changing coverage to a different health benefit

37 plan offered by the same carrier. If an individual or the responsible

38 party for a child notifies the carrier of the change within the first

39 15 days of a month, coverage under the new health benefit plan

40 shall become effective no later than the first day of the following

1 month. If an individual or the responsible party for a child notifies the carrier of the change after the 15th day of a month, coverage under the new health benefit plan shall become effective no later than the first day of the second month following notification.

10955. (a) Effective January 1, 2011, a carrier may not exclude any child who would otherwise be entitled to health care services on the basis of an actual or expected health condition of that child. No ~~health care service~~ health benefit plan may limit or exclude coverage for a child by type of illness, treatment, medical condition, or accident.

(b) Effective January 1, 2014, a carrier may not exclude any individual who would otherwise be entitled to health care services on the basis of an actual or expected health condition of that individual. No ~~health care service~~ health benefit plan may limit or exclude coverage for a child by type of illness, treatment, medical condition, or accident.

~~10956. All health benefit plans offered to an individual or child shall provide to contractholders and insureds at least all of the basic health care services in this act.~~

10957. No carrier shall be required to offer a health benefit plan or accept applications for the contract pursuant to this ~~article~~ *chapter* in the case of any of the following:

(a) To an individual or child, if the individual or child who is to be covered by the health benefit plan does not work or reside within the carrier's approved service areas.

(b) (1) Within a specific service area or portion of a service area, if the carrier reasonably anticipates and demonstrates to the satisfaction of the commissioner that it will not have sufficient health care delivery resources to ensure that health care services will be available and accessible to the individual or child because of its obligations to existing insureds.

(2) A carrier that cannot offer a health benefit plan to individuals or children because it is lacking in sufficient health care delivery resources within a service area or a portion of a service area may not offer a contract in the area in which the carrier is not offering coverage to individuals to new employer groups until the carrier notifies the commissioner that it has the ability to deliver services to individuals, and certifies to the commissioner that from the date of the notice it will enroll all individuals requesting coverage in that area from the carrier.

1 (3) Nothing in this ~~article~~ *chapter* shall be construed to limit
2 the commissioner's authority to develop and implement a plan of
3 rehabilitation for a carrier whose financial viability or
4 organizational and administrative capacity has become impaired.

5 10958. The commissioner may require a carrier to discontinue
6 the offering of contracts or acceptance of applications from any
7 individual or child upon a determination by the commissioner that
8 the carrier does not have sufficient financial viability or
9 organizational and administrative capacity to ensure the delivery
10 of health care services to its insureds. In determining whether the
11 conditions of this section have been met, the commissioner shall
12 consider, but not be limited to, the carrier's compliance with the
13 requirements of this part and the rules adopted under those
14 provisions.

15 10959. All health benefit plans offered to a child or individual
16 shall be renewable at the option of the insured or responsible party
17 for a child except:

18 (a) For nonpayment of the required premiums by the insured or
19 responsible party for a child.

20 (b) For fraud or misrepresentation by the individuals or their
21 representatives.

22 (c) When the carrier ceases to provide or arrange for the
23 provision of health care services for new individual health benefit
24 plans in this state; provided, however, that the following conditions
25 are satisfied:

26 (1) Notice of the decision to cease new or existing individual
27 health benefits plans in this state is provided to the commissioner
28 and to the contractholder at least 360 days prior to the
29 discontinuation of the coverage.

30 (2) Individual health benefit plans subject to this ~~article~~ *chapter*
31 shall not be canceled for 360 days after the date of the notice
32 required under paragraph (1) and for that business of a carrier
33 which remains in force, any carrier that ceases to offer for sale
34 new individual health benefit plans shall continue to be governed
35 by this ~~article~~ *chapter* with respect to business conducted under
36 this ~~article~~ *chapter*.

37 (3) Except as authorized under Section ~~10959~~ 10958, a carrier
38 that ceases to write new individual business in this state after the
39 effective date of this ~~article~~ *chapter* shall be prohibited from
40 offering for sale new individual health benefit plans in this state

1 for a period of five years from the date of notice to the
2 commissioner.

3 (d) When the carrier withdraws a health benefit plan from the
4 individual market; provided, the carrier notifies all affected
5 contractholders and the commissioner at least 180 days prior to
6 the discontinuation of those contracts, and the carrier makes
7 available to the individual all health benefit plans that it makes
8 available to new individual business; and provided, that the
9 premium for the new health benefit plan complies with the renewal
10 increase requirements set forth in Section 10960.

11 10960. Effective January 1, 2011, premiums for contracts
12 offered or delivered by carriers on or after the effective date of
13 this ~~article~~ *chapter* for children shall be subject to the following
14 requirements:

15 (a) The premium for new business shall be determined for an
16 eligible child in a particular risk category after applying a risk
17 adjustment factor to the carrier's standard risk rates. ~~The Between~~
18 ~~January 1, 2011, and December 31, 2011, inclusive, the risk~~
19 ~~adjusted risk rate may not be more than 120 percent or less than~~
20 ~~80 percent of the carrier's applicable standard risk rate until January~~
21 ~~1, 2012. Effective January 1, 2012 rate. Between January 1, 2012,~~
22 ~~and December 31, 2013, inclusive, this factor may not be more~~
23 ~~than 110 percent or less than 90 percent. The standard risk rates~~
24 ~~applied to a child for new business shall be in effect for no less~~
25 ~~than 12 months.~~

26 (b) (1) The premium for in force business shall be determined
27 for an eligible child in a particular risk category after applying a
28 risk adjustment factor to the carrier's standard individual risk rates.
29 ~~The Between January 1, 2011, and December 31, 2011, inclusive,~~
30 ~~the risk adjusted individual risk rates may not be more than 120~~
31 ~~percent or less than 80 percent of the carrier's applicable standard~~
32 ~~risk rate until January 1, 2011. Effective January 1, 2012, this risk~~
33 ~~rate. Between January 1, 2012, and December 31, 2013, inclusive,~~
34 ~~this factor may not be more than 110 percent or less than 90~~
35 ~~percent. The factor effective January 1, 2011, shall apply to in~~
36 ~~force business at the earlier of either the time of renewal or January~~
37 ~~1, 2012. The risk adjustment factor applied to a child may not~~
38 ~~increase by more than 10 percentage points from the risk~~
39 ~~adjustment factor applied in the prior rating period. The risk~~

1 adjustment factor for a child may not be modified more frequently
2 than once every 12 months.

3 (2) The standard risk rates shall be in effect for no less than 12
4 months.

5 (3) For a contract that a carrier has discontinued offering, the
6 risk adjustment factor applied to the standard risk rates for the first
7 rating period of the new contract that the responsible party for the
8 child elects to purchase shall be no greater than the risk adjustment
9 factor applied in the prior rating period to the discontinued contract.

10 However, *between January 1, 2011, and December 31, 2011,*
11 *inclusive*, the risk adjusted individual risk rate may not be more
12 than 120 percent or less than 80 percent of the carrier's applicable
13 ~~standard risk rate until January 1, 2012. Effective January 1, 2012,~~
14 *standard risk rate. Between January 1, 2012, and December 31,*
15 *2013, inclusive*, this factor may not be more than 110 percent or
16 less than 90 percent. The factor effective January 1, ~~2012~~ *2011*,
17 shall apply to in force business at the earlier of either the time of
18 renewal or January 1, 2012. The risk adjustment factor for a child
19 may not be modified more frequently than once every 12 months.

20 10961. Carriers shall apply standard risk rates consistently with
21 respect to all children.

22 10962. In connection with the offering for sale of any health
23 benefit plan for children, each carrier shall make a reasonable
24 disclosure, as part of its solicitation and sales materials, of the
25 following:

26 (a) The extent to which premium rates for a specific child are
27 established or adjusted in part based upon the actual or expected
28 variation in service costs or actual or expected variation in health
29 condition of the child.

30 (b) The provisions concerning the carrier's right to change
31 premium rates and the factors, other than provision of services
32 experience, that affect changes in premium rates.

33 (c) Provisions relating to the guaranteed issue and renewal of
34 contracts.

35 (d) Provisions relating to the child's right to apply for any
36 contract written, issued, or administered by the carrier at the time
37 of application for a new health benefit plan, or at the time of
38 renewal of a health benefit plan.

1 (e) The availability, upon request, of a listing of all the plan's
2 contracts and benefit plan designs offered for children, including
3 the rates for each contract.

4 (f) At the time it offers a contract to the responsible party for a
5 child, each carrier shall provide the responsible party with a
6 statement of all of its health benefit plans offered to children,
7 including the rates for each health benefit plan, in the service area
8 in which the individuals who are to be covered by the health benefit
9 plan reside. For purposes of this subdivision, carriers that are
10 affiliated carriers or that are eligible to file a consolidated income
11 tax return shall be treated as one carrier.

12 (g) Each carrier shall do all of the following:

13 (1) Prepare a brochure that summarizes all of its health benefit
14 plans offered to children and to make this summary available to
15 any responsible party for a child and to solicitors upon request.
16 The summary shall include for each contract information on
17 benefits provided, a generic description of the manner in which
18 services are provided, such as how access to providers is limited,
19 benefit limitations, required copayments and deductibles, standard
20 risk rates, and a ~~phone~~ *telephone* number that can be called for
21 more detailed benefit information. ~~carriers~~ *Carriers* are required
22 to keep the information contained in the brochure accurate and up
23 to date and, upon updating the brochure, send copies to solicitors
24 and solicitor firms with whom the health benefit plans to solicit
25 enrollments or subscriptions.

26 (2) For each contract, prepare a more detailed evidence of
27 coverage and make it available to responsible parties, solicitors,
28 and solicitor firms upon request. The evidence of coverage shall
29 contain all information that a prudent buyer would need to be aware
30 of in making contract selections.

31 (3) Provide to responsible parties and solicitors, upon request,
32 for any given child the standard risk rates. When requesting this
33 information, responsible parties, solicitors, and solicitor firms shall
34 provide the carrier with the information the carrier needs to
35 determine the ~~individual's~~ *child's* risk adjusted risk rate.

36 (4) Provide copies of the current summary brochure to all
37 solicitors and solicitor firms contracting with the carrier to solicit
38 enrollments or subscriptions from responsible parties for children.

1 For purposes of this subdivision, carriers that are affiliated
2 carriers or that are eligible to file a consolidated income tax return
3 shall be treated as one carrier.

4 (h) Every solicitor or solicitor firm contracting with one or more
5 carriers to solicit enrollments or subscriptions from responsible
6 parties for children shall do all of the following:

7 (1) When providing information on contracts to a responsible
8 party for a child or children but making no specific
9 recommendations on particular health benefit plans:

10 (A) Advise the responsible party of the carrier's obligation to
11 sell to any responsible party any health benefit plan it offers for
12 children and provide them, upon request, with the actual rates that
13 would be charged for that child for a given contract.

14 (B) Notify the responsible party that the solicitor or solicitor
15 firm will procure rate and benefit information for the responsible
16 party for the child on any health benefit plan offered by a carrier
17 whose contract the solicitor sells.

18 (C) Notify the responsible party that upon request the solicitor
19 or solicitor firm will provide the responsible party with the
20 summary brochure required under this paragraph for any health
21 benefit plan offered by a carrier with whom the solicitor or solicitor
22 firm has contracted to solicit enrollments or subscriptions.

23 (2) When recommending a particular benefit plan design or
24 designs, advise the responsible party that, upon request, the agent
25 will provide the responsible party with the brochure required by
26 paragraph (1) containing the benefit plan design or designs being
27 recommended by the agent or broker.

28 (3) Prior to filing an application for a responsible party for a
29 child for a particular contract:

30 (A) For each of the health benefit plans offered by the carrier
31 whose contract the solicitor or solicitor firm is offering, provide
32 the responsible party with the benefit summary required in
33 paragraph (1) and the standard risk rates for that particular child.

34 (B) Notify the responsible party that, upon request, the solicitor
35 or solicitor firm will provide the responsible party with an evidence
36 of coverage brochure for each contract the carrier offers.

37 (C) Notify the responsible party for a child that, from January
38 1, 2011, to ~~January 1, 2012~~ *December 31, 2011, inclusive*, actual
39 rates may be 20 percent higher or lower than the standard risk
40 rates, and from January 1, 2012, ~~until December 31, 2014~~ *to*

1 *December 31, 2013, inclusive*, actual rates may be 10 percent
2 higher or lower than the standard risk rates, depending on how the
3 carrier assesses the risk of the child.

4 (D) Notify the responsible party that, upon request, the solicitor
5 or solicitor firm will submit information to the carrier to ascertain
6 the child's ~~the~~ risk adjusted risk rate for any contract the carrier
7 offers.

8 (E) Obtain a signed statement from the responsible party
9 acknowledging that the responsible party has received the
10 disclosures required by this section.

11 10963. (a) At least 30 business days prior to renewing or
12 amending a health benefit plan subject to this ~~article~~ *chapter* that
13 will be in force on the operative date of this ~~article~~ *chapter*, a
14 carrier shall file a notice of material modification with the
15 commissioner. The notice of material modification shall include
16 a statement certifying that the carrier is in compliance with
17 subdivision (i) of Section 10950 and Section 10960. The certified
18 statement shall set forth the standard risk rate for each risk category
19 and the highest and lowest risk adjustment factors that will be used
20 in setting the rates at which the contract will be renewed or
21 amended. Any action by the commissioner to disapprove, suspend,
22 or postpone the carrier's use of a health benefit plan shall be in
23 writing, specifying the reasons that the health benefit plan is not
24 in compliance with the requirements of this chapter.

25 (b) At least 30 business days prior to offering a health benefit
26 plan subject to this ~~article~~ *chapter*, all carriers shall file a notice
27 of material modification with the commissioner. The notice of
28 material modification shall include a statement certifying that the
29 carrier is in compliance with subdivision (i) of Section 10950 and
30 Section 10960. The certified statement shall set forth the standard
31 risk rate for each risk category and the highest and lowest risk
32 adjustment factors that will be used in setting the rates at which
33 the contract will be offered. Carriers that will be offering to a
34 responsible party for a child contracts approved by the
35 commissioner prior to the effective date of this ~~article~~ *chapter* shall
36 file a notice of material modification in accordance with this
37 subdivision. Any action by the commissioner to disapprove,
38 suspend, or postpone the carrier's use of a health benefit plan shall
39 be in writing, specifying the reasons that the health benefit plan is
40 not in compliance with the requirements of this chapter.

(c) Prior to making any changes in the risk categories, risk adjustment factors or standard risk rates filed with the commissioner pursuant to subdivision (a) or (b), the carrier shall file, as an amendment, a statement setting forth the changes and certifying that the carrier is in compliance with subdivision (i) of Section 10950 and Section 10960. A carrier may commence offering health benefit plans utilizing the changed risk categories set forth in the certified statement on the 45th day from the date of the filing, or at an earlier time determined by the commissioner, unless the commissioner disapproves the amendment by written notice, stating the reasons therefor. If only the standard risk rate is being changed, and not the risk categories or risk adjustment factors, a carrier may commence offering health benefit plans utilizing the changed standard risk rate upon the 31st day after filing the certified statement unless the commissioner disapproves the amendment by written notice.

(d) Periodic changes to the standard risk rate that a carrier proposes to implement over the course of up to 12 consecutive months may be filed in conjunction with the certified statement filed under subdivision (a), (b), or (c).

(e) Each carrier shall maintain at its principal place of business all of the information required to be filed with the commissioner pursuant to this section.

(f) Each carrier shall make available to the commissioner, on request, the risk adjustment factor used in determining the rate for any particular child.

(g) Nothing in this section shall be construed to limit the commissioner's authority to enforce the rating practices set forth in this ~~article~~ chapter.

10964. The commissioner may issue regulations that are necessary to carry out the purposes of this ~~article~~ chapter. Prior to the public comment period required by regulations under the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the commissioner shall provide the Director of Managed Health Care with a copy of the proposed regulations. The director shall have 30 days to notify the commissioner in writing of any comments on the regulations. The director's comments shall be included in the public notice issued on the regulations. Any rules and regulations adopted pursuant to this ~~article~~ chapter may be

1 adopted as emergency regulations in accordance with the
 2 Administrative Procedure Act. Until December 31, 2015, the
 3 adoption of these regulations shall be deemed an emergency and
 4 necessary for the immediate preservation of the public peace, health
 5 and safety, or general welfare. Any regulations adopted prior to
 6 December 31, 2015, in order to remain in effect after December
 7 31, 2016, shall be readopted as nonemergency regulations in
 8 accordance with the Administrative ~~Procedures~~ *Procedure* Act
 9 prior to December 31, 2016.

10 SEC. 3. No reimbursement is required by this act pursuant to
 11 Section 6 of Article XIII B of the California Constitution because
 12 the only costs that may be incurred by a local agency or school
 13 district will be incurred because this act creates a new crime or
 14 infraction, eliminates a crime or infraction, or changes the penalty
 15 for a crime or infraction, within the meaning of Section 17556 of
 16 the Government Code, or changes the definition of a crime within
 17 the meaning of Section 6 of Article XIII B of the California
 18 Constitution.

19
 20
 21 CORRECTIONS:

22 Text—Pages 4 and 23.
 23